

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

_____)

Western Massachusetts) D.T.E. 00-40

Electric Company)

_____)

PETITION OF MASSPOWER FOR LIMITED PARTICIPANT STATUS

Now comes your petitioner, MASSPOWER, and respectfully petitions for limited participant status in the above-captioned proceeding pursuant to 220 C.M.R. 1.03 and M.G.L. c. 30A, § 10 as follows:

1. MASSPOWER is a general partnership organized under the laws of the Commonwealth of Massachusetts, and having its principal place of business at 750 Worcester Street, Indian Orchard, Massachusetts. MASSPOWER owns and operates a gas-fired electric generation facility in Indian Orchard ("Facility"). A portion of the electricity generated by the Facility is sold to Western Massachusetts Electric Company ("WMECo") under a long-term Electricity Purchase Agreement dated June 15, 1991.
2. On November 15, 1999, WMECo filed with the Department of Telecommunications and Energy ("Department") a Petition for Approval of Termination of MASSPOWER Agreement which would satisfy its power purchase obligations to MASSPOWER. That petition was docketed as D.T.E. 99-101. Public notice was issued on November 29, 1999 and December 1, 1999. Discovery has been completed and final comments, if any, are due tomorrow, May 26, 2000.
3. On April 20, 2000, WMECo filed with the Department a Petition for Approval of the Issuance of Rate Reduction Bonds Pursuant to General Laws Chapter 164, §1H. Among the Transition Costs included in that petition is "the MASSPOWER buyout payment filed in D.T.E. 99-101." Western Massachusetts Electric Company, D.T.E. 00-40, Notice of Filing and Public Hearing, May 5, 2000 at 1.
4. In ruling on a petition for leave to intervene, the Department may permit "any person showing that he may be substantially and specifically affected by the proceeding to intervene as a party in the whole or any portion of the proceeding, and allow any other interested person to participate by presentation of argument orally or in writing, or for any other limited purpose" as the Department may order. Mass. Gen. L. c. 30A, § 10, cl. (4). A petition must "describe the manner in which the petitioner is substantially and specifically affected by the proceeding," and "state the nature of the evidence the petitioner will present if the petition is granted." Boston Edison Company, D.P.U. 97-63 (Interlocutory Order on the Scope of the Proceeding and Petitions for Leave to Intervene); see also 220 C.M.R. 1.03(1)(b).

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5. The interest of MASSPOWER is substantially and specifically affected by this proceeding because the consummation of a buyout agreement between MASSPOWER and WMECo, WMECo's payment of money to MASSPOWER thereunder, and MASSPOWER's relinquishment of valuable contract rights, is contingent on the outcome of this proceeding. Specifically, Section 1.1(b) of a Termination Agreement between WMECo and MASSPOWER reads as follows:

1.1 Regulatory Approvals. Notwithstanding anything expressed or implied in this Agreement to the contrary, the obligation of WMECo to make the Termination Payment and to consummate the transaction herein contemplated is conditioned on:

...

(b) WMECo's receipt of (i) a final and non-appealable financing order (the "Financing Order"), satisfactory to WMECo in its sole discretion, from the DTE pursuant to G.L. c. 164, § 1H authorizing the issuance of rate reduction bonds ("Bonds") to finance the Termination Payment; and (ii) the proceeds of the issuance of the Bonds.

WMECo's Proposed Financing Order filed in this proceeding explicitly references "the MASSPOWER buyout payment" as one of the "transition and issuance costs. . . to be recovered through the RTC Charge." Exhibit WM-1, at 6-7.

6. Because WMECo is seeking the Department's authorization to securitize the payment to MASSPOWER, and because that payment is contingent on the Department's approval thereof, MASSPOWER's interest in this proceeding is specific. The proposed amount of payment renders MASSPOWER's interest in this proceeding substantial. See also, Boston Edison Company, D.P.U. 97-63 (limited participant status granted to Cablevision Systems Corporation and the New England Cable Television Association notwithstanding the absence of a substantial and specific interest affected by the proceeding).

WHEREFORE, MASSPOWER prays that its Petition be granted. If granted, MASSPOWER requests that all filings in this docket be served on MASSPOWER's counsel at the address set forth below.

Respectfully submitted,

MASSPOWER

By its attorneys,

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